

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GARY C. and GALE B. WARREN,
and TOLL BROS., INC.,

Plaintiffs,

v.

NEW CASTLE COUNTY,

Defendant.

C.A. No. 07-725 SLR-LPS

**JOINT MOTION OF PLAINTIFFS AND DEFENDANT TO HOLD CASE IN
ABEYANCE**

Plaintiffs, Gary and Gale Warren (“**Warren**”) and Toll Bros., Inc. (“**Toll**”), and Defendant, New Castle County (“**County**”), hereby jointly request that this Court stay all activity in this case, *i.e.* hold this case in abeyance, for approximately three (3) months, *i.e.* until October 31, 2008, to allow the parties to attempt to amicably resolve this matter and in support thereof aver:

1. On June 26, 2008, Magistrate Judge Leonard P. Stark issued a Report and Recommendation in this action.
2. The time for Plaintiffs to file objections to the Report and Recommendation was extended to Monday, July 25, 2008 by Order of Magistrate Judge Stark, dated July 3, 2008.
3. Shortly before the Report and Recommendation was issued, Plaintiffs and Defendant commenced meaningful settlement discussions and set forth in a memorandum of understanding the framework for a potential settlement of this action.

4. The proposed settlement that the parties envision is complicated and involves, *inter alia*, negotiation of new agreements with non-parties to this litigation. Therefore, Plaintiffs and the County desire additional time to determine whether the settlement as contemplated is feasible.

5. As part of the settlement, the County Council will need to consider enactment of enabling legislation to allow Toll to transfer development rights (“TDRs”) from the parcels of land involved in this litigation to different parcels. If the settlement, as contemplated, can be accomplished, much of the parcels that are at issue in this case, and parcels that currently have development applications pending, could be preserved for primarily agricultural uses.

6. To allow Plaintiffs and Defendant time to investigate the feasibility of the contemplated settlement and if so, to prepare and execute a formal settlement agreement, the parties jointly request that the Court stay all activity in this case for an initial period of approximately three (3) months, until October 31, 2008.

7. The parties shall provide the court with a written status report on or before October 24, 2008.

8. If settlement is not achieved, Plaintiffs shall file objections to the Report and Recommendation within twenty (20) days of expiration of the stay period.

9. Staying all activity in the case will allow the parties to focus their energies on the issues that need to be resolved for the potential settlement to be feasible and may avoid the expenditure of judicial resources in deciding objections and other responses that will be filed in the action if all activity in the case is not stayed, *i.e.* not held in abeyance.

WHEREFORE, Plaintiffs and Defendant respectfully request that their Joint Motion to Hold the Case in Abeyance be granted.

Respectfully submitted,

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NEW CASTLE COUNTY,

Defendant.

C.A. No. 07-725 SLR-LPS

ORDER

AND NOW, this _____ day of July, 2008, having considered the Joint Motion of Plaintiffs and Defendant to Hold Case in Abeyance, it is hereby **ORDERED AND DECREED** that the Joint Motion is **GRANTED** and that all activity in the case is stayed until October 31, 2008 or until further Order of this Court. It is **FURTHER ORDERED** that Plaintiffs shall file their objections to the Report and Recommendation of Magistrate Judge Leonard P. Stark, dated June 26, 2008, within twenty (20) days of the expiration of the stay period, as set by this Order or as extended by any further Order of this Court. Any party may request that the case be returned to active status on or before October 31, 2008 if either party determines that the proposed settlement is unfeasible. It is **FURTHER ORDERED** that the parties shall provide the Court with a written status report no later than seven (7) days before the expiration of the stay period.

BY THE COURT:

Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GARY C. and GALE B. WARREN, :
and TOLL BROS., INC., :
: Plaintiffs, : Civil Action No. 07-CV-725-SLR-LPS
v. :
: NEW CASTLE COUNTY, :
Defendant. :
:

CERTIFICATE OF SERVICE

I, Jeffery M. Weiner, hereby certify, that on July 16, 2008, I caused the "Joint Motion to Hold Case in Abeyance" to be E-served upon counsel of record as follows:

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